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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Hirohito SUDA, et al.

SERIAL NO: 10/731,147

GROUP: 2617

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EXAMINER: Jean Alland GELIN

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2nd RCE FILED: January 12, 2007

FOR: MOBILE COMMUNICATION TERMINAL, SERVER, COMMUNICATION
SYSTEM, COMMUNICATION CONTROL METHOD, AND
COMMUNICATION CONTROL PROGRAM

LETTER

Mail Stop DD
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is a Canadian Office Action for the Examiner's consideration. The reference cited therein has been previously filed on July 7, 2004.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle

Registration No. 40,073

Joseph Scafetta, Jr.

Registration No. 26,803


W. Todd Baker

Registration No. 45,265

Customer Number

22850

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 03/06)

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January 30, 2007

FETHERSTONHAUGH & CO.

P.O. Box 2999
Station D
OTTAWA Ontario
K1P 5Y6

Application No. : **2,452,744**
Owner : NTT DOCOMO, INC.
Title : **MOBILE COMMUNICATION TERMINAL, SERVER,
COMMUNICATION SYSTEM, COMMUNICATION CONTROL
METHOD, AND COMMUNICATION CONTROL PROGRAM**
Classification : H04Q 7/36 (2006.01)
Your File No. : **27986-53**
Examiner : Anne-Marie Scott

YOU ARE HEREBY NOTIFIED OF A REQUISITION BY THE EXAMINER IN ACCORDANCE WITH SUBSECTION 30(2) OF THE *PATENT RULES*. IN ORDER TO AVOID ABANDONMENT UNDER PARAGRAPH 73(1)(A) OF THE *PATENT ACT*, A WRITTEN REPLY MUST BE RECEIVED WITHIN 6 MONTHS AFTER THE ABOVE DATE.

This application has been examined as originally filed.

The number of claims in this application is 21.

The examiner has identified the following defects in the application:

References Applied

Patent Documents:

7/7/04 D1: WO 02/11074 A2
(cited in EPO prosecution)

07 Feb 2002

Zalewski et al.

Novelty

Independent claims 1, 9, 12, 16 and 20 do not comply with paragraph 28.2(1)(b) of the *Patent Act* because these claims include subject matter disclosed in D1 before the claim date. More specifically, D1 describes:

- 1) As in independent claims 1 and 9, D1 describes: a mobile communication terminal (D1, page 18, line 7: "*Mobile station*") comprising:
 - identification information receiving means for receiving identification information from at least one mini-communicator which transmits predetermined identification information of its own (D1, page 25, lines 1-8: "*reader... interrogate the RFID tag... identification number*");
 - cellular communication means for implementing communication with a server or another terminal via a cellular communication network (D1, page 8, lines 26-29: "*radio frequency*");

component ... of mobile phones,... used to transmit and receive calls and messages using radio frequencies in a radio communications network"); and

As in claim 1, D1 describes: switching control means (D1, page 16, line 6: "MCU") for receiving a switching signal for switching among a plurality of modes comprising an identification information receive mode of activating only the identification information receiving means out of the identification information receiving means and the cellular communication means, and a cellular communication mode (D1, page 15, line 31 - page 16, line 13) of activating only the cellular communication means, and for performing a mode switching control based on the received switching signal (D1, page 5, lines 20-29).

As in claim 9, D1 describes: a server (D1, Fig. 6, item 602) capable of communication with at least one mobile communication terminal (D1, Fig. 6, item 104), the server comprising: a switching signal transmitting means (D1, Fig. 4, item 352: the interrogator) for transmitting to the mobile communication terminal a switching signal according to a predetermined mode switching request (D1, page 5, lines 26-30), in order to implement switching among a plurality of modes comprising an identification information receive mode of activating only the identification information receiving means out of the identification information receiving means and the cellular communication means, and a cellular communication mode of activating only the cellular communication means, at the mobile communication terminal (D1, page 15, line 31 - page 16, line 13; page 5, line 20 - page 6, line 13).

2) In relation to independent claims 12, 16 and 20, the system (of claim 12), the method (of claim 16) and the control program (of claim 20) contain a corresponding feature combination as in independent claims 1 and 9, and therefore lack in novelty.

Obviousness

Claims 1-21 do not comply with section 28.3 of the *Patent Act*. The subject matter of these claims would have been obvious on the claim date to a person skilled in the art or science to which they pertain having regard to D1, and the state of the art on the claim date. More specifically:

1) Since claims 1, 9, 12, 16 and 20 lack novelty, the subject matter of these claims is also deemed obvious.

2) In relation to dependent claims 2-8, 10, 11, 13-15, 17-19 and 21, the following features do not constitute an inventive step over the subject matter of D1 and the common knowledge in the communications art: measuring reception intensity, storage of information, transmission of information, location determination, transmission and reception channels, signal amplification, authentication, the use of time stamps, and the use of a computer readable medium.

Subject matter

The subject matter of claim 20 is directed towards a program to be executed by a computer. This claim is directed to non-statutory subject matter, and is outside the definition of invention in section 2 of the *Patent Act*. More specifically, this claim must recite the material or physical medium in a positive manner, storing or embodying the computer readable code of the computer program for execution in the computer (see MPOP 16.04.03a). The proper format of a product/program claim is shown in the following example:

“A computer readable memory storing computer executable code for...”

In view of the foregoing defects, the applicant is requisitioned, under subsection 30(2) of the *Patent Rules*, to amend the application in order to comply with the *Patent Act* and the *Patent Rules* or to provide arguments as to why the application does comply.

Anne-Marie Scott
Patent Examiner
(819) 934-6749
2452744A.wpd